



## REGULAR MEETING MINUTES

**Wednesday, February 12, 2014  
Art Pick Council Chambers  
3900 Main Street, Riverside, CA**

### CASE REVIEW – 4:30 PM

#### Case Review Roll Call

Rotker	Hawkins	Ybarra	Taylor	Ortiz	Jackson	Roberts	VACANT	Adams
✓	✓	✓	✓	✓	✓	✓	■	✓

✓ = Present    **B** = Absent / Business    **S** = Absent / Sick    **V** = Absent / Vacation    **O** = Absent / Other  
**UE** = Absent / Unexcused    **L** = Late    **LE** = Left Early    **■** = Vacant

**STAFF:** Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

#### Public Comments

This is an opportunity for members of the public to address the Commission on closed session items.

Mr. and Mrs. Young, and Ms. Veronica Mendoza addressed the Commission regarding their respective cases.

#### Closed Session – Case Review

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 5:05 PM to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	CPRC CASE NO.	RPD CASE NO.
1)	13-035	PC-13-09055
2)	12-022	PC-12-07027
3)	13-009	PC-13-04017

The Commission recessed at 5:35 PM to reconvene in the Regular Meeting.

## REGULAR MEETING – 5:30 PM

Audio for the following proceedings is available on the CPRC website:

[www.riversideca.gov/cprc](http://www.riversideca.gov/cprc)

Copies can also be obtained by calling the CPRC office at (951) 826-5509.

### PLEDGE OF ALLEGIANCE

#### Roll Call

Rotker	Hawkins	Ybarra	Taylor	Ortiz	Jackson	Roberts	VACANT	Adams
✓	✓	✓	✓	✓	✓	✓	■	✓

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**STAFF:** Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

#### Public Comments

Public comment on any subject matter within the Commission's jurisdiction.

Mary Shelton said she had looked at the draft of the annual report. She noted that the Commission's review of OIDs does not begin until the one year limit has expired. She also said that in her review of the comparative analyses, she was surprised that the City Manager's Office had more "Not Sustained" findings than RPD or CPRC.

Paul Chavez spoke on the Jimenez OID. He said he wondered how far the Commission had progressed in its review of the case. He asked the Commission to get answers to his questions and to make some kind of recommendation so that this case has a positive outcome.

John Brandriff said it was good that the Commission was getting involved with the policing and mental illness concern. He suggested a round-table type forum and urged the Commission to continue pursuing discussion of this subject.

Christina Duran noted that both of the incidents referred to by Paul Chavez were in Lt. Flores' area. She noted that the incidents were somewhat similar, but there are differences. She said that Mr. Jimenez was said to have lunged at the officers, whereas the other incident was more of a suicide attempt and treated differently.

Ms. Duran also addressed Item 13 as she would not be present when it came up for discussion. She said that the Eastside has been asking for a crisis response team for years. She said that Lt. Flores is currently meeting with various agencies regarding the creation of a crisis response team. Said things are "in the baby stages", but that work is being done with Riverside County Mental Health and other agencies. She suggested that Lt. Flores be asked for a presentation regarding his activities in this regard.

#### Approval of Minutes

Minutes for Approval	Motion	Second	Approve	Oppose	Abstain
A) January 22 Regular Meeting	Rotker	Jackson	Rotker, Hawkins, Ybarra, Taylor, Ortiz, Jackson, Roberts	0	Adams

## **Outreach**

### **A) January / February Outreach**

Commissioner Adams:

- January 23 – State of the City Address
- January 25 – Walk with the Mayor
- February 8 – Black History Parade and Expo

Commissioner Hawkins:

- January 25 – Vivian Stancil Olympic Foundation Gala
- February 8 – Black History Parade and Expo

Commissioner Taylor:

- February 6 – La Sierra Arlanza Neighborhood Alliance (LANA); brief presentation regarding CPRC
- February 8 – Black History Parade and Expo

Vice-Chair Jackson:

- January 31 - Ride-Along; addressed roll call
- February 1 – Wick's Brewing Officers' Memorial

Chairwoman Roberts:

- January 25 – Vivian Stancil Olympic Foundation Gala
- February 8 – Black History Parade and Expo
- Spoke with Councilmember Jim Perry regarding the mental health issue

### **B) Upcoming Outreach Events and Opportunities**

- 1) 3<sup>rd</sup> Annual Chief's Breakfast – March 6<sup>th</sup> at 7 AM
- 2) Whitney M. Young Jr. Service Awards Event – March 13<sup>th</sup>
- 3) 2014 Law Enforcement Appreciation Event – April 24<sup>th</sup>, Pechanga Resort in Temecula

Commissioner Adams:

- February 16 – 5 CAN 5 K in La Sierra
- February 19 – Mayor's Night Out, Reid Park at 6:30 PM

### **C) Future Outreach Opportunities**

- 1) Input from Outreach Coordinator on upcoming outreach events
- 2) Input from Commission Members on potential outreach events

Commissioner Ortiz:

- March 8 – Mighty Riverside Sunrise Rotary's "Black Tie Bingo" Annual Fundraiser at the Riverside Art Museum

Mary Shelton said she attended the Black History Parade and Expo. She expressed her disappointment that neither RPD nor the City had booths at this event as they have had in the past, yet noted that CHP had a booth. She also expressed concern that the Eastside had only one complaint reviewed in 2013 and said it would be good for the Commission to do more outreach in the Eastside and Downtown areas.

### **Training Presentation by Lt. Bruce Loftus**

Presentation regarding the Criminal Casebook used by the Commission for its public review of officer-involved death cases, the contents of the casebook, past and present, when and why changes occurred regarding items included for public review and discussion, and the redaction process.

Lt. Loftus opened by introducing himself to those in the audience. He said he would be speaking on citizen complaints, how they are routed to the Commission, and the officer-involved death cases. (The audio, along with the slide show presentations, is available on the CPRC website.)

Lt. Loftus:

- IA Personnel prepare everything that goes to the CPRC.
- After case information is ready, it will be uploaded to IA's Laserfiche repository, which is the IA database for storage of reports.
- A folder is created under "CPRC Review", which includes sub-folders for memos, audio, and video recordings. The CPRC has full access to these items.
- Documents in sub-folders are: police reports, Coban video recordings, digital audio recordings, and memos of findings.
- Documents that are not included are: CLETS information – CDL and / or DOJ information as state law is restrictive as to who can have access to that information; executive summaries; after-action reports; routing sheets; internal e-mails; tracking information; employee histories; admonition of rights or orders not disclose, all of which are administrative and do not pertain to the facts of the complaint.
- Commissioner access to the Memo of Finding is restricted, but is not restricted to Staff. This is done so that the Commission's decision is not influenced by RPD's.
- CPRC Staff is then advised when a case is ready for review. If there is video with the case, a CD / DVD is sent to CPRC because it can be difficult to view large videos via Laserfiche.
- Other items that pertain more to OIDs is information regarding medical conditions which, by law, cannot be released, or any information that could lead to identity theft. These items will not be released or will be released in a redacted version.
- For citizen complaints, the Commission will have access to virtually everything that pertains to the case.
- Are there any questions regarding the complaint process?

Commissioner Rotker:

- Are the procedures just described new or has it always been this the way?
  - The only change regarding citizen complaints would be the use of Coban video recordings. As these are personnel investigations, all the procedures mentioned are the same as they have always been. The "Police Officer Bill of Rights" limits what can be released in these types of investigations. What you receive is standard and conforms with California State Law and the Public Records Act.
- It is new for CPRC to receive a CD or DVD containing the Coban video.
  - The larger the video, the longer it takes to load. Anything we can do to help you in dealing with technological glitches, we will do.
- It would be helpful if there were an easier way for us to get the video rather than having to go to the CPRC office to get it.
  - I would like to make it easier to access, but am not comfortable sending out multiple discs with this type of information.
- We don't really need a disc, but just need a way to speed up the download of the Laserfiche video.
  - I understand, but it may not just be Laserfiche. Laserfiche is slow, but home bandwidth could also be part of the problem.

Commissioner Taylor:

- We are given the video on flash drives. I am concerned about the way in which files are categorized and labeled. It is frustrating not to be able to determine what's what.
  - Hopefully that will be a simple fix. I'll check to see if there is a better way to ID the files.

Mr. Hauptmann:

- Penal Code Section 832.7 deals with the confidentiality of peace officer files.
- 832.8 defines a peace officer file.
- Any access to one of these files is typically through an attorney.
- In order for the attorney to view these files, a Pitchess motion would have to be filed.
- The judge will decide, in camera, whether there's anything in the file pertaining to the attorney's request.

Lt. Loftus next spoke regarding officer-involved death (OID) cases.

- RPD has to get the OID casebook to CPRC within 30 days of the DA's finding.
- The Commission has the ability to begin its investigation immediately.
- The DA's clearance letter states whether or not, based on their review, the officer's actions were justified.
- After the DA clears the case, RPD creates a redacted version of the criminal casebook for the Commission's public review and posting online.
- At this time, the Commission does not receive audio or video for its public review of OIDs.
- The redacted casebook is stored in the "Public Review" folder in Laserfiche.
- Items that are not included in the redacted criminal casebook are the coroner's report, outside agency reports, CLETS information, executive summaries, after-action reports, routing sheets, and internal e-mails.
- Disturbing photos, such as autopsy photos or on-scene photos of the decedent, are also excluded as we don't want them available for viewing out of respect for the families.
- Digital audio and Coban video are also excluded from the public portion of the OID review.
- Medical information will not be released and is redacted.
- After the redacted casebook is received, the Commission begins its review in this open forum.
- After the Commission completes its public discussion, they are sent the administrative review.
- More information is received for the administrative review.
- Although a decision is made based on the information available during public discussion, the information available in the administrative portion may cause the Commission to revisit the first decision.
- After the public finding is made, IA is advised of the decision and the administrative casebook and unredacted criminal casebook are made available to the Commission via Laserfiche.
- Outside agency reports, the coroner's report, audio, and Coban video will be available for the administrative review.
- If it appears that something is missing at any time, the CPRC Manager will contact RPD and ask. The requested item will then be included if it was inadvertently omitted.
- Disturbing photos and autopsy photos will still be excluded from the administrative review. Officers' faces will also be redacted due to the requirements of the law.
- I have discussed both the community's and the Commission's concerns with Chief Diaz and Asst. Chief Vicino. Chief Diaz directed me to review RPD's current procedures, but he is open to the Department reviewing the current procedure.
- The Personnel Bureau will review the current procedures as to what is currently released and redacted.
- I will be working with Mr. Hauptmann, and hopefully the Commission, to determine how both the Commission and the public can best be served.
- Chief Diaz has asked me to determine what the law says we can do, and determine how the Commission and the public feel about it.
- When Chief Diaz makes decision, it will be a decision made with input from many different people.
- Does the Commission have any questions?

Commissioner Rotker:

- Why are things redacted? Also, regarding the OID administrative review, we don't receive employee history due to the Police Officer Bill of Rights, and understand not receiving autopsy photos, but regarding the disturbing photos, why can't that be left up to us to decide whether or not it's disturbing?
  - First, that is being done out of respect for the family. But you might also get only a portion of the

photo with only the disturbing part redacted. I understand your concern and will advise the Chief. We aren't allowed to release autopsy photos.

- The administrative review is confidential so I see no reason to redact anything unless it's required by law.
  - When the Commission was new, RPD tried to do everything it could to make it work. Information was released that shouldn't have been released. That's when we had to determine what was public record and what shouldn't be released. State law now says that autopsy photos can't be released.
  - One of the questions most frequently asked is why the audio and video are no longer made available for public review. Once a video is released for the Commission's public review, it has now become a public record and it must be released to anyone who requests it.
  - A misconception arose that RPD has released videos in the past, but only one was authorized for release by Chief Diaz and that was the redacted Coban video from Officer Bonaminio's car. It was released to get public help in trying to identify the suspect.
  - RPD did not publicly release the video pertaining to the prior chief's drunk driving incident. The video was released to CHP. CHP gave the information to the DA's office and it was the DA's office that released the video.
  - The coroner's public records act does not apply to RPD. Once the coroner's inquest is concluded or the DA's clearance letter has been filed, anyone can make a public records act request for a coroner's report.

Commissioner Taylor:

- How much time does RPD have to get the OID investigation to the DA?
  - There is no time constraint. RPD's policy is to get the investigation done as quickly and thoroughly as possible.
- I'm trying to determine where the delay occurs. After the report comes back from the DA, we're supposed to get it within 30 days to get. The stall seems to be in the redacting process.
  - 30 days is a short period of time and the redaction process requires the review of every page.
- How many employees are on staff for this?
  - I would have to check.
- Does the coroner's report in the administrative casebook contain the blood and toxicology test results?
  - Whatever the coroner gives us is given to the CPRC.
- But it can't be released to us until the administrative review.
  - Correct.

Commissioner Adams:

- If the audio and video cannot be put online, can we still get it, but not put it online?
  - Mr. Hauptmann: Whatever is given to the Commission as part of the public report, can be obtained from the Commission through a Public Records Act Request.
  - Lt. Loftus: RPD understood the need for the Commission to have access to certain items, but also knew that it could be problematic.

Chairwoman Roberts:

- How would negative information learned through an OID's administrative review be released?
  - We would need to consult with the City Attorney on how to address that should the need arise. If there were an issue of concern to RPD, Mr. Hauptmann would be advised of that concern. Also, the Public Records Act does not say that items cannot be released. It says we have the ability NOT to release items. If Chief Diaz decides to release something, he is well within the law to do that.
- We were never told that the digital audio would no longer be available for public review. How do we keep additional items from being removed?
  - I cannot justify what went on in the past. Chief Diaz doesn't see this as an "Us vs. Them". Our goal is to reduce roadblocks. An explanation should be given to the Commission if something is removed.
- Does RPD choose not to release medical information or is that the law?
  - It is the law.

- Can that information be obtained from the coroner's report?
  - Yes.

Commissioner Rotker:

- You've said there is the right to know and the need to know. Who makes the decision as to what the Commission needs to know? The Commission should be provided with the same information that is provided to RPD. All photos attached to a case should be available in the administrative review so that commissioners can decide what is or isn't valid. Please consider including all photos, with no changes, for the administrative review.
  - I will look this and any recommendations will go to Chief Diaz.

Commissioner Ortiz:

- The Commission won't receive audio or video for public review, no matter how innocuous it is, with the rationale that it might be inflammatory or cause distress to the family. I wonder if this policy is tailored to that concern, even for items that wouldn't be problematic. Is there an analysis done or is it too time consuming?
  - RPD isn't worried about audio or video showing the department in a bad light because that would defeat the purpose of the Commission and Chief Diaz' goal is to improve our service to the community. The issue is that any of the audio or video attached to a case would now become public and that is the concern.

Commissioner Hawkins:

- Does RPD consider the Commission a part of the public?
  - The Commission is not considered a part of the public. That is why the cases are bifurcated. The personnel cases that you review are discussed in closed session, not in open session, so you aren't considered part of the public. The issue comes about in open session and what can be released for discussion in an open forum.

Commissioner Taylor:

- I want to reinforce Commissioner Rotker's request regarding case photos for administrative review and depend on the photos because we are unable to visit the incident scene. Please stress this request to Chief Diaz.
  - I understand and your request will be delivered.

Chairwoman Roberts thanked Lt. Loftus for the presentation. Lt. Loftus said to please let him know if there is anything else he can do to help.

Chairwoman Roberts then opened for public comment.

Andrew Roth said it was his understanding that the audio for the Ledezma case hadn't been released to the Commission. He said that the audio was released in public during the civil trial yesterday. He said he didn't think sensitivity for the family justified the audio not being released to the public. He said he was present for the first OID and within a month of the incident, an RPD representative played the 911 tape of incident.

Mary Shelton said that audio was included in the Brown OID casebook. She noted that the Commission's investigator played audio from one of the OID's during a Commission meeting. No one from RPD objected to that audio being played. There were some documents included in the Brown casebook that shouldn't have been there, but nothing was said about the audio being played during the meeting. She noted that there have been cases posted online with the audio included, but that isn't being done anymore. She said today's presentation could have been done when RPD decided not to include the audio in the cases.

Commissioner Ortiz addressed Lt. Loftus, saying he was concerned that the Commission isn't advised about what is not included in the criminal casebook and asked if there was a way to learn what has been redacted.

Lt. Loftus said he would mention that recommendation.

John Brandriff said he had hoped to understand why there had been a change, but didn't really hear anything about that. He noted that the police officer records referred to by Mr. Hauptmann consist of personal information and that is not what the audio recordings are about. He also said there are times when the Commission needs independent counsel because advice from the City Attorney may not be in the best interest of the Commission. He said he believes it is important for the Commission to be insistent about why there has been this change.

Linda Dunn said she advised a review of NACOLE and other oversight bodies on this issue. She then turned the balance of her time over to Andrew Roth.

Andrew Roth said that the process of resolving the issue as to what is being given to the Commission or withheld is in the Chief's hands. He said the DA's office has always issued a clearance letter and that there has never been a criminal prosecution.

Commissioner Ortiz said that Mr. Roth had earlier suggested that the Department reach out to the family of the decedent regarding the release of audio and video. He said he was concerned about how the entire family would be reached or if it would be the immediate family only and asked Mr. Roth how he thought that would be done.

Mr. Roth responded that issues such as an open casket situation are decided by the immediate family. He said families who have lost a family member through interaction with police should have as much information available to them as quickly as possible so that their questions can be answered. He noted that family members are also concerned about the length of time it takes for the Commission to get this information from RPD.

Commissioner Ortiz noted that emotional distress is inherent with video and that there are groups that might cause problems because of video that is posted online.

Mr. Roth agreed that there might be problems, but said that the decision shouldn't be up to Chief of Police.

Commissioner Taylor asked Mr. Roth who would assist the Commission if the Chief said no.

Mr. Roth wouldn't make specific recommendations, but said that the Commission needed to have independent counsel.

Deborah Wong asked who assembles the casebooks and said that the Chief may make the final recommendation as to what is included. She said the "need to know" was heard a number of times and asked who decides what the Commission needs to know. She said it is clear that the Commission needs access to independent counsel to get answers to these questions.

Chairwoman Roberts said suggested that, because of the time, there would be two meetings in March and asked commissioners to check their schedules regarding their availability.

Commissioner Rotker suggested that the meeting stop after the Dunbar OID was discussed.

Chairwoman Roberts said some agenda items would need to be tabled because of lack of time.

Commissioner Adams said she was concerned that the issue discussed in Item 8 was being "dropped". She noted that Lt. Loftus would be taking the concerns of the public and the Commission to Chief Diaz, but asked if the Commission had finished with the issue.

Chairwoman Roberts said that discussion has not ended, that it should be discussed in public, and the Commission should decide how to proceed. She suggested reagendizing the item in March.

Commissioner Ortiz suggested that it be reagendized after more information was available to report. He reiterated his suggestion that they have access to a "privileged log" and maybe have a third-party agency review what is in the casebook and determine if the redacted items are being appropriately redacted.



Lt. Loftus reiterated that Chief Diaz wants to review these concerns and doing that includes the public, the Commission, and RPD. He also advised the Commission not to look at this as completed training, but to look at it as the beginning.

Mr. Hauptmann also commented that he and Asst. Chief Vicino had discussed the concerns while Lt. Loftus was doing his research and that Asst. Chief Vicino was seeking input on the issue. He said that if anything is held back, legal reasons would be given for that.

Commissioner Ortiz suggested contacting NACOLE to learn what best practice is industry-wide.

Mr. Hauptmann said he would check with different agencies and report back.

Commissioner Rotker said he believed Chief Diaz would work with the Commission and that it made sense that the Chief would want to have a meeting to discuss the issues and address some of the concerns that have been noted in order to improve the OID process.

Lt. Loftus said there was going to be a meeting with members of the Commission and that concerns couldn't be known if they weren't present. He asked commissioners to think about what they feel is important so those concerns could be discussed.

Commissioner Adams said she agreed with Commissioner Rotker, but felt that members of the public should participate in the process as well.

## **OLD BUSINESS**

### **Dunbar Officer-Involved Death (OID) Case Evaluation**

Continued discussion and action, if any, on the Dunbar OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review: Completed
- B) Stage II – Fact Finding, Request for Training & Investigation: Completed
- C) Stage III – Policy and Procedure Process: Completed
- D) Stage IV – Deliberation and Finding Process: Completed
- E) Stage V – Recommendation Process: In Process
- F) Stage VI – Written Public Report: In Process

Due to lack of time, discussion of this item was tabled until the next meeting.

## **NEW BUSINESS**

### **CPRC Officer Nominations**

Self-nomination or nomination of fellow commissioners for 2014 CPRC Chair and Vice-Chair; elections to be held during the first meeting in March.

Chairwoman Roberts asked for nominations CPRC Chair and Vice-Chair.

Commissioner Hawkins nominated Chairwoman Roberts and Vice-Chair Jackson for Chair and Vice-Chair for the positions they currently held. Chairwoman Roberts said they were unable to serve in those positions as they had already served the two terms allowed.

Chairwoman Roberts nominated Vice-Chair Jackson and Commissioner Adams for the positions of Chair and Vice-Chair respectively.

Commissioner Rotker nominated Commissioner Ortiz and Commissioner Taylor for the positions of Chair and Vice-Chair respectively.

Chairwoman Roberts asked the nominees if they accepted the nominations, which all did. She restated the Vice-Chair Jackson and Commissioner Ortiz had been nominated for Chair and Commissioner Adams and Commissioner Taylor had been nominated for Vice-Chair.

### **2013 Annual Report**

Discussion and action, if any, on Draft No. 1 of the 2013 Annual Report.

Chairwoman Roberts said she had reviewed the draft and that it looked good so far.

Commissioner Taylor, Annual Report Committee Chair, asked that commissioners check their bios and send any changes to Staff. He also asked when the report cover would be ready.

Ms. Sherron said she would be working on the cover and hoped to have something within the next couple of weeks.

### **RPD Response to CPRC Policy Recommendation**

Discussion of RPD's response to the Commission's recommendation to RPD's Domestic Violence Policy 4.23 E & F, which was approved by the Commission on November 13, 2013 and submitted to Chief Diaz on November 19, 2013.

Due to lack of time, this item was tabled for discussion at the next Regular meeting.

### **Policing and Mental Illness**

Discussion regarding policing and mental illness and the Commission's involvement in facilitating discussion between the community and the Riverside Police Department regarding this issue.

Due to lack of time, this item was tabled for discussion at the next Regular meeting.

### **Staff Report**

Due to lack of time, this item was tabled.

### **Commission Member Comments**

Pursuant to Government Code Section 54954.2, Commission members may use this time to make brief announcements or a brief report on their own activities.

Due to lack of time, this item was tabled.

### **Items for Future Commission Consideration**

Chairwoman Roberts requested discussion regarding the types of outreach in which the Commission should be involved.

Commissioner Hawkins requested discussion regarding the time allowance for public comments.

Commissioner Taylor requested discussion about obtaining investigators or investigation firms that are more culturally diverse.

**Adjournment**

The Commission adjourned at 7:55 PM.

Respectfully submitted,



PHOEBE SHERRON  
Sr. Office Specialist